

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.	1:08 CR 506
	)		
Plaintiff,	)	JUDGE DONALD C. NUGENT	
	)		
v.	)		
	)		
ANTHONY L. VIOLA,	)	<u>MEMORANDUM OPINION</u>	
	)	<u>AND ORDER</u>	
Defendant.	)		

This matter comes before the Court upon Defendant, Anthony Viola's Motion to Vacate Ruling Dated November 17, 2015 for Lack of Jurisdiction (ECF #508), and Motion for Reconsideration (ECF #509). Both of these motions are DENIED. Mr. Viola's challenges to this Court's jurisdiction are without merit. At the time the ruling was issued, there were no remaining appeals pending before the Sixth Circuit Court of Appeals. The last issue that was properly appealed was resolved as of November 13, 2015. There is no appeal pending on the validity of Mr. Viola's conviction or sentence; the Court of Appeals denied Mr. Viola's request to disqualify this Judge (ECF #504); and the last issue properly appealed was resolved on November 13, 2015, prior to the issuance of this Court's ruling. (ECF #505). Further, Mr. Viola's pending requests under the Freedom of Information Act in Pennsylvania are irrelevant to these proceedings. This Court previously denied Mr. Viola's request to expand the record and

that decision was upheld by the Court of Appeals. (ECF #466, 484, 505). Finally, the filing of a petition for review by the United States Supreme Court does not divest the lower courts of jurisdiction to address issues in the case absent the granting of a stay pursuant to Fed. R. App. P. 41(d)(2). No such stay has been granted in this case. For these reasons, Mr. Viola's Motion to Vacate Ruling Dated November 17<sup>th</sup>, 2015 for Lack of Jurisdiction, (ECF #508), is DENIED.

With regard to the Motion for Reconsideration, based on the information and arguments before the Court, and for the reasons set forth in the Court's order, no evidentiary hearing was necessary to decide Mr. Viola's §2255 Petition. Therefore, Mr. Viola's motion for reconsideration (ECF #509) is also DENIED.

IT IS SO ORDERED.

  
DONALD C. NUGENT  
United States District Judge

DATED: December 17, 2015